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TOWN AND COUNTRY PLANNING ACT 1990

FULL

Reference: H23-1024-19 **Date of Decision:** 23rd December 2019
Applicant: Mr S Jeffs
Meadow View
Foundry Road
Ryhall
Stamford Lincs
PE9 4JA
Location: Homeland Eaugate Road Whaplode Drove Spalding
Description: Erection of earth sheltered dwelling

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

- 1 The proposal would make a small contribution to the supply of housing required to meet the needs of present and future generations within the district and its design would also have a low carbon footprint. It may also bring small economic benefits to the area. However, these factors are outweighed by the harm that the proposal would cause in terms of other social and environmental factors such as the distance from local services and facilities, reliance upon the motor car and the development's effect upon the character and appearance of the countryside.

The site is located within the countryside where existing development is well spaced. Notwithstanding the characteristics of the site the proposed earth sheltered dwelling would still be visible and would have a rather alien appearance within the flat fenland landscape. It would be out of character with and consolidate existing development and would also domesticate and materially change the present rural character of the site. Also, any impact on the intrinsic quality of the countryside should take into account visibility of the site when internally lit. As such, it would be significantly harmful to the prevailing rural character of the countryside.

The site is not therefore considered to be a suitable site for housing with particular regards to the principles of sustainable development and the protection of the rural character of the countryside. It is therefore contrary to Policy 1 of the South East Lincolnshire Local Plan, 2019. This policy is in accordance with advice within the National Planning Policy Framework. Paragraphs 127 and 131 indicate that new development should respond to local character, whilst Paragraph 170 seeks to protect the intrinsic character of the countryside. Paragraph 103 indicates that development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offer a genuine choice of transport modes. Paragraph 79 is not considered to be applicable in this case because the site is not regarded as "isolated".

Paragraph 79 of the Framework exceptionally makes provision for isolated homes in the countryside where they are for rural workers to live permanently at or near their place of work in the countryside and also for dwellings of exceptional or innovative design. However, it is not considered applicable in this case because the site is not isolated. Even if Paragraph 79 was to be engaged it has not been demonstrated that there is an essential need for a rural worker in this specific location. Moreover, the design of the dwelling is not considered to be exceptional, in that it is truly outstanding or innovative.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

The determined plans are:

1:1250 Location Plan;
JDA/2018/175.SITE.001;
JDA/2018/175.SITE.002;
JDA/2018/175.BLOCK.001;
JDA/2018/175.ELEVATIONS.001;
JDA/2018/175.SECT.001;
JDA/2018/175.AERIAL.001;
Design and Access Statement (Project no. JDA/2018/195) dated October 2019;
Sustainability Report and Schedule of Renewable Energy Assets (Project no. JDA/2018/195) dated October 2019.



Phil Norman
Planning and Building Control Manager
South Holland District Council

BUILDING REGULATIONS:

This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the

Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.